



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Into Implementation
of Federal Communications Commission Report
and Order 04-87, as It Affects the Universal
Lifeline Telephone Service Program

Rulemaking 04-12-001
(Filed December 2, 2004)

**MOTION OF THE GREENLINING INSTITUTE TO STRIKE PORTIONS OF SUREWEST
TELEPHONE AND SUREWEST TELEVIDEO'S REPLY COMMENTS AND THE SMALL
LECS'S REPLY COMMENTS**

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May 2, 2007

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**I. INTRODUCTION: SERVING LOW-INCOME COMMUNITIES - OUTSIDE THE
SCOPE OF THIS PROCEEDING?**

Pursuant to Rule 11.1(b) of the Commission’s Rules of Practice and Procedure, the Greenlining Institute (“Greenlining”) moves to strike portions of the reply comments of SureWest Telephone and SureWest Televideo (“SureWest”) and the reply comments of the Small LEC’s. In an effort to avoid duplication, Greenlining’s Motion to Strike includes both SureWest and the Small LECs since the improper portions of their reply comments are identical.¹

SureWest and the Small LECs reply comments inappropriately attempt to restrict the scope of this proceeding and state that Greenlining’s recommendation that this Commission consider transforming the current California LifeLine (“LifeLine”) program from one based on obsolete technology (landlines) to modern technology (cell phones) falls outside the Commission’s inquiry in this proceeding.² This is not only an improper characterization of Greenlining’s recommendation, but only the Assigned

¹ See SureWest Reply Comments p. 4 and Small LECs Reply Comments p. 4

² See Id.

Commissioner and ALJ have the authority to define the scope of this proceeding. It is that SureWest and the Small LECs have attempted to circumvent the judgment of the Assigned Commissioner and ALJ and to limit the scope of the Commission's inquiry in their reply comments. Greenlining therefore requests that the Assigned Commissioner and ALJ Jones strike Sections VII of SureWest and the Small LECs reply comments and, if possible make clear that alternate technologies could be beneficial in achieving the Commission objective of affordable and effective universal service.

Furthermore, Greenlining is astonished that these parties expect the Commission to disregard a strategy that would not only improve a program designed to serve the needs of the 22 million minorities throughout California, but that could also allow the Commission to potentially realize a reduction in the present costs by as much as 50%. Greenlining's recommendation is proper and falls directly within the inquiry of this Commission, since central to this proceeding is that parties recommend strategies for improvements to the LifeLine program. Without innovative changes to the current LifeLine program, it will only perpetuate the creation of a second class service and further widen the digital divide for low-income Californians.

II. DISCUSSION: THE ASSIGNED COMMISSIONER AND ALJ JONES SHOULD STRIKE SECTION VII OF SUREWEST AND THE SMALL LECS REPLY COMMENTS

In their reply comments SureWest and the Small LECs inappropriately attempt to restrict the scope of this proceeding. Such action is not only inappropriate, but contrary to the central goal of the proceeding. Greenlining therefore believes it is proper for the Assigned Commissioner and ALJ Jones to strike the portions of SureWest and the Small LECs reply comments. Greenlining submits that its recommendation that the Commission consider and implement substantive changes, such as transitioning from landlines to cell phones or altering the enrollment requirements³ to the LifeLine program properly

³ See Greenlining's opening comments p. 7: "...Greenlining recommends that the Commission expand the eligibility of the LifeLine program to include additional factors, such as geographic differences in the cost of living and that poverty is relative. The Commission should not rely exclusively on pretax income and cash benefits from the government as the eligibility benchmark for participation in the LifeLine Program."; See also Staff Report p. 32

fall within the scope of the proceeding. Greenlining further submits that if it had not made such recommendations to the Commission in this proceeding, it would be failing to advocate on behalf of low-income Californians.⁴

Greenlining also submits that the reply comments filed by AT&T California (“AT&T”), TURN, The National Consumer Law Center, Disability Rights Advocates and Latino Issues Forum indirectly support Greenlining’s position that its opening comments fall within the scope of the proceeding. AT&T is one of the largest providers of LifeLine services to low-income consumers in California and therefore has a significant interest in ensuring that the scope and purpose of the proceeding is met. In its reply comments AT&T did not raise any issues as to whether Greenlining’s recommendations were outside the scope of the proceeding. If AT&T believed that Greenlining’s recommendation, of transforming the LifeLine program to one based on cell phones, was outside of the scope of the proceeding it would have raised this in its reply comments.

Likewise, both Verizon (“Verizon”) and Cox California Telecom, LLC (“Cox”) chose not to file reply comments in this proceeding. Verizon, like AT&T, is one of the largest providers of LifeLine services to low-income consumers in California and therefore also has a significant interest in ensuring that the scope and purpose of the proceeding is met. Greenlining submits that if Verizon found Greenlining’s recommendation, of transforming the LifeLine program to one based on cell phones, was outside of the scope of the proceeding it would have filed reply comments. Similarly, if Cox believed that Greenlining’s recommendation was outside of the scope of the proceeding it would have also filed reply comments.

Moreover, the leading consumer advocates in California and nationally also did not question whether Greenlining’s recommendation for a cell phone based LifeLine program was outside of the scope

which indicated that many applicants to the LifeLine program who were ultimately deemed ineligible for LifeLine discounts only marginally exceeded the LifeLine income thresholds. (emphasis added)

⁴ See ALJ Jones proposed decision which recognizes that as many as 6.7 million or even 10 million Californians may qualify for LifeLine service, but as a result of bureaucratic obstacles, which the Commission has been forced to implement, only 3.5 million are presently receiving LifeLine telephone service

of the proceeding. Based on this support Greenlining urges that the Assigned Commissioner and ALJ Jones grant its motion to strike and to make clear that alternative technologies, such as raised herin, are appropriate.

III. CONCLUSION: TRANSFORMING TO CELL PHONES

For the reasons set forth above, the Assigned Commissioner and ALJ Jones should strike the above-referenced portions of SureWest and the Small LECs reply comments.

May 2, 2007

Respectfully submitted,

/s/ Robert Gnaizda
Robert Gnaizda
The Greenlining Institute

/s/ Thalia N.C. Gonzalez
Thalia N.C. Gonzalez
The Greenlining Institute

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[PROPOSED] ADMINISTRATIVE LAW JUDGE'S RULING

In accordance with its Rules of Practice and Procedure, the California Public Utilities Commission ("Commission") has considered the Motion of the Greenlining Institute for a Hearing in the above captioned proceeding, and further arguments of the parties. For good cause shown, the Commission hereby orders the motion of Greenlining as follows:

The Administrative Law Judge grants the motion to strike of the Greenlining Institute and hereby strikes Section VII of the reply comments of SureWest Telephone and SureWest Televideo and the Small LECs.

Dated _____, 2007 at San Francisco, California.

Administrative Law Judge Jones

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CERTIFICATE OF SERVICE

I, Thalia N.C. Gonzalez, am 18 years of age or older and a non-party to the within proceeding. I am a resident and citizen of the State of California with the business address at the Greenlining Institute of 1918 University Avenue, Second Floor, Berkeley, CA 94704 and telephone number of 510-926-4002.

On May 2, 2007 I caused the following document:

MOTION OF THE GREENLINING INSTITUTE TO STRIKE PORTIONS OF SUREWEST
TELEPHONE AND SUREWEST TELEVIDEO'S REPLY COMMENTS AND THE SMALL LECS'S
REPLY COMMENTS

to be served upon all interested parties of record in R.04-12-001 named in the official service list via e-mail to those whose e-mail address is listed in the official service list and via first class mail with postage prepaid or facsimile to those whose e-mail address is not available.

I certify that the foregoing is true and correct.

Executed in Berkeley, California on May 2, 2007.

/s/ Thalia N.C. Gonzalez

Thalia N.C. Gonzalez

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